

Chapter Twelve

Obtaining and Interpreting Eyewitness Identification Test Evidence: The Influence of Police–Witness Interactions

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Introduction

Eyewitnesses to a crime are frequently asked to view an identification parade to see if they can identify the offender. Conduct of a line-up involves police or line-up administrators in a number of important decisions, such as who to put in the line-up, the method of presentation of the line-up, and what to say to witnesses before and after the line-up. The identification test can be conceptualized as a variant on an interview between the police and the witness, involving important interactions between police (or other line-up administrators) and witnesses. These interactions can profoundly influence witness decisions and impact on the characteristics of any subsequent evidence they provide in the courts. We shall focus on (i) the expectations that police/administrators can engender in witnesses and how these can shape witness behaviour; (ii) the instructions that are provided to witnesses prior to viewing the line-up; (iii) possible ways in which administrators can interact with (and hence influence) witnesses in the conduct of line-ups; (iv) the soliciting of confidence

assessments from witnesses; (v) the interpretation of witness confidence assessments; and (vi) the influence of interactions that occur post-identification on witnesses' subsequent reports about the event and the identification test.

Eyewitnesses to crimes are frequently asked by police to view an identification parade or line-up to see if they can identify the offender who, of course, may or may not be the police suspect. It is now well documented that eyewitnesses are far from infallible when it comes to making an identification, with their performance characterized by both mistaken identifications of innocent suspects and failures to identify the offender when present in the line-up (e.g. Cutler & Penrod, 1995; Wells, Memon & Penrod, 2006; Innocence Project, 2009). In sum, eyewitness identification tests are far from a fool-proof way of pinpointing the offender.

It is also well established that the conduct of a line-up requires police or other line-up administrators to make a number of decisions that can have a far-reaching impact on the outcomes of the identification test. These decisions include deciding upon the membership of the line-up (e.g., how many members, how closely those members resemble the appearance or the description of the perpetrator), the method of presentation of the line-up (e.g., photo spread vs. live line-up vs. video line-up; simultaneous vs. sequential), how to record the line-up decision and any associated behaviours of the witness (e.g., witness confidence, decision latency), what to say to witnesses before they are shown the line-up and after they have made their decision (e.g., feedback about their decision). The research literature on these issues is extensive and offers valuable guidelines for the conduct of line-ups (e.g. Technical Working Group for Eyewitness Evidence, 1999; Brewer, Weber & Semmler, 2005; Wells *et al.*, 2006), but many of these issues are not the focus of this chapter.

In this chapter we conceptualize the identification test as a special form of interview between the police and the witness. We examine the important interactions that can occur between police (or other line-up administrators) and witnesses. We show how these interactions can exert a significant influence on witness decisions and behaviour and, in turn, shape the characteristics of any subsequent evidence they provide (e.g., in the courts).

Pre-identification test interactions

An identification test is seldom likely to take place immediately after a crime. Rather, a more likely scenario is that police will first identify witnesses to the crime and interview them about the participants and events associated with the crime. At a later date (in the UK after a delay likely to exceed one month; Pike, Brace & Kynan, 2002) when police have a suspect, they may ask a witness to attend an identification test. There is some empirical evidence, and there are sound theoretical grounds, for believing that interactions that occur prior to the identification test may shape the responding of the witness at the identification test.

Effects of providing a description on identification performance

It is possible that providing a verbal description to police at an interview may, under certain circumstances, impair subsequent performance on an identification test, an effect labelled the verbal overshadowing effect (Schooler & Engstler-Schooler, 1990). Although Meissner & Brigham's (2001) meta-analysis of verbal overshadowing studies revealed a small negative effect of providing a description on recognition, the findings are certainly not universally supportive. Further, while the effect has been detected in experiments in which the identification test closely followed the verbal description (e.g., ≤ 10 minutes) – conditions that are unlikely to prevail in real investigations – a mild facilitation effect has been detected when this interval was extended (*ibid.*). It is probably a fair assessment of the state of the scientific literature in this area to say that the findings are not decisive, the effect sizes appear not to be large and the key theoretical mechanisms underpinning the effects are by no means resolved. From a practical perspective, the possible existence of the verbal overshadowing effect can perhaps be ignored, as the occurrence of a police interview with a witness early in an investigation, and prior to any identification test, would seem to be inevitable. Should, however, future research reveal a facilitation effect to be robust under conditions paralleling those likely to be found in real investigations, it is possible that clarifying the mechanisms underlying such effects could assist in the refinement of interviewing techniques that might facilitate identification performance.

Another possible effect of a prior interview on identification performance has been described by Brewer (2006). It is possible that the performance of a witness during a police interview will shape the witness's impressions of the quality of his or her memory, with these impressions affecting the likelihood that she or he will make a choice at the identification test. For example, it seems intuitive that a witness who had great difficulty describing the offender at interview may doubt the quality of their memory and be less likely to choose from the line-up; the opposite might be expected for a witness for whom the description seemed particularly easy. Witnesses' inferences about the strength of their memory for the perpetrator might also be shaped by any post-interview feedback provided by police interviewers.

Interestingly, however, the basic recognition memory literature suggests the possibility of a different, and counter-intuitive, effect. Word-recognition research conducted within a signal detection framework indicates that people who are likely to believe that they have a strong memory for particular stimuli (because they have studied the stimulus items extensively) expect to be able to remember those stimuli and set a more demanding criterion for reporting their occurrence (Stretch & Wixted, 1998; Morrell, Gaitan & Wixted, 2002). Conversely, people who believe the opposite (i.e., a weak memory) relax their criterion and are more likely to report that they have seen a stimulus before

(Stretch & Wixted, 1998). Clear evidence for the influence of such witness metacognitions has not yet been published in the scientific literature. However, preliminary results from research currently underway in our laboratory reveal patterns consistent with the latter, counter-intuitive hypothesis.

Expectations of witnesses about the identification test

Most witnesses are likely to have limited experience with, or knowledge of, identification tests. Indeed their background probably derives mainly from viewing television programmes involving police and lawyers. Nevertheless, what witnesses almost certainly appreciate is that somewhere in the line-up is a police suspect. Thus, when witnesses are contacted and asked to attend an identification test, they are probably going to infer that the police investigation has led them to pinpoint a suspect. To the extent that a witness believes that the suspect is likely to be the offender, the witness may also reason that a sign of a capable witness will be the ability to pick the suspect from the line-up, thereby assisting in bringing that person to justice.

While we are not aware of any data that provide an unambiguous indication of witness beliefs on this issue, Memon, Gabbert & Hope (2004) reported that more than 90% of participant witnesses across multiple experiments indicated that they had assumed the perpetrator's presence in the line-up, despite having received line-up instructions explicitly warning them that the perpetrator may not be present. These estimates involved retrospective reports from witnesses who had just seen a line-up and may not, therefore, reflect witnesses' a priori expectations about the presence of the perpetrator. Unpublished data from our laboratory indicate that approximately 50% of university students (sampled when attending the laboratory to participate in other non-eyewitness studies) believe that more than 70% of 'real' police line-ups are likely to contain the perpetrator. Around 75% believe that at least 50% of line-ups are likely to contain the perpetrator.

Despite the limitations of such surveys, they reinforce the position that witnesses who attend an identification test are likely to entertain the belief that the perpetrator is in the line-up, a belief that is likely to bias the witness towards making a choice from the line-up. This bias can readily be enhanced if the police or line-up administrator provides, knowingly or unknowingly, additional cues to the witness. One example would be if the witness was contacted and told, 'We know who did it, but we need you to come view a line-up.' But, it does not have to be this blatant. For instance, the police might say, 'We have made great progress on the case and now we need to show you a line-up'. Even the phrase 'We would like you to come to the station and see if you can identify the perpetrator' implies to the witness that the perpetrator is in the line-up and that the only question is whether the witness is capable of picking him out. Interestingly, raising the expectation that the perpetrator will be in a later line-up need not come from a conversation about a line-up at all. For example, 'This guy has done this type of offence before and we need

to get him off the streets' is the type of statement that communicates to the listener that the police know who did it. Hence, if a line-up is shown later, the witness is going to assume that the police have the villain in the line-up; otherwise, why are they showing the line-up?

Given the overwhelming evidence from laboratory and field studies of witnesses' propensity to misidentify innocent suspects, ensuring that witnesses about to attend a line-up are not biased towards making a positive identification becomes a crucial part of the interaction between the line-up administrator and the witness.

Police–witness interactions at the identification test: pre-decision influences

During the administration of the identification test, abundant opportunities exist for the line-up administrator to influence the decision-making of the witness and the judicial outcome of the test. Some of these opportunities occur prior to the witness actually making their decision about the line-up; others occur after the decision. Consequently, eyewitness researchers insist that certain procedures should be adopted to protect the witness from being influenced by the line-up administrator. At the pre-decision stage there are two important procedures to follow: one involves what is called double-blind line-up administration; the other involves the use of unbiased line-up instructions.

Double-blind administration

Double-blind administration means that the line-up administrator has no knowledge of which line-up member is suspected of being the perpetrator and which line-up members are merely fillers. Fillers are known-innocent members of the line-up who fit the same general description but clearly are not the perpetrator. The purpose of the fillers is to prevent the witness from knowing which person the police suspect and to make the witness rely on his or her memory instead. Obviously, if the line-up administrator somehow communicates to the eyewitness which line-up member is the suspect (and/or which are mere fillers), then the entire idea of using fillers is undermined. The use of a double-blind line-up administrator to prevent such communication for eyewitness line-ups was first proposed more than 20 years ago (Wells, 1988), but the idea of double-blind test administration is a long-established staple for human testing protocols in basic and applied science. The pharmaceutical industry, for example, is required to use double-blind testing for new drugs in which the medical testers of the patients cannot know whether the patient is in the placebo condition or the drug condition because the testers might fail to ask the placebo patients about side-effects or improvements, or the patients might infer from the testers' behaviours that they are in the placebo condition. The effect of experimenters' knowledge and expectations on the

people they test has long been established scientifically (Harris & Rosenthal, 1985). Conducting a line-up is functionally analogous to conducting an experiment with human participants (Wells & Luus, 1990). How might a line-up administrator who knows who is the suspect and who are fillers influence the witness? The possibilities are almost endless, but the reader should keep in mind that we are not suggesting that these influences are intentional, nor are we suggesting that the line-up administrator or the witness is necessarily aware of these influences. Consider the dynamics of the administrator–witness interaction. The administrator is very aware that she or he has placed the suspect in position 3 and that positions 1, 2, 4, 5 and 6 are mere fillers who could not have committed the offence. The witness now looks at the line and says, ‘Well ... number 2’, then pauses. A natural and understandable reaction of the line-up administrator at that point might be, ‘Now ... take your time, don’t be too quick’ or, ‘Be sure that you look at all the pictures.’ At that point, any witness with a modicum of intelligence realizes that number 2 is not the suspect and will move on to another photo. Suppose, on the other hand, the witness says, ‘Well ... number 3’. To number 3 the reaction of the administrator is likely to be quite different – for example, ‘Tell me about number 3.’ It is not uncommon for eyewitnesses to waver between two or more line-up members. This conversational process shapes the witness’s behaviour away from fillers and towards the suspect. Notice, however, that it is not the witness’s memory that is guiding the process, but the beliefs of the line-up administrator.

There are various ways in which the double-blind administration could be put into practice, though essentially what is required is that the line-up administrator operates completely independently of the personnel responsible for line-up construction and is unable to cue the witness in any way. The latter is, of course, more readily achieved when the line-up presentation is computerized or otherwise automated, thereby removing any interaction between line-up administrator and witness during the conduct of the line-up. Criticisms sometimes levelled at a requirement for double-blind line-up administration include the associated increased resource demands and insufficient flexibility to accommodate the sometimes immediate and pressing needs of police seeking to conduct a line-up.

It is important to note that, even when double-blind line-up administration is used, opportunities for line-up administrator influence may still exist. Douglass, Smith & Fraser-Thill (2005) showed that a combination of sequential line-up administration (i.e., presenting line-up members one at a time) and multiple eyewitnesses can result in line-up administrator influence. Douglass *et al.* required participant line-up administrators to test, in succession, two witnesses. The line-up administered was a perpetrator-absent line-up. The first witness (a confederate) picked the fifth line-up member presented (an innocent foil), and did so either quickly and confidently or slowly and with low confidence. They found that the second witness, who had actually witnessed the crime and was genuinely attempting an identification, was more likely to rep-

licate the first witness's choice if the latter had been slow and unconfident. Douglass *et al.* (2005) suggested that the unconfident confederate's behaviour may have suggested to the administrator that the identification task was a difficult one, leading the administrator to impart some subtle cues to the second witness to assist with their (difficult) decision.

The obvious practical implication of the Douglass *et al.* (2005) findings is that, when there is more than one witness to a crime involved in an identification test, the conduct of the test should be carried out by separate administrators who are not only blind to the suspect's identity but also to the outcome of any previous line-up conducted. In a series of studies currently underway in the first author's laboratory, the pattern of findings detected by Douglass *et al.* has not been replicated consistently. Nevertheless, this does not rule out the possibility that line-up administrator influence could not occur in double-blind line-ups under at least some conditions. Accordingly, until further research clarifies this issue, the above practical recommendation remains a sensible one.

One possible solution to both the resource issue (i.e., requiring an additional person to administer the line-up) and the problem of successive administration by the double-blind administrator is to computerize the line-up. In fact, many eyewitness research labs' eyewitnesses have used computers for many years to administer photographic line-ups for which, in effect, the computer administers the line-up, delivers instructions and collects the witness's responses. The American Judicature Society's Institute of Forensic Science and Public Policy in North Carolina headed the development of such a program (called the 'laptop line-up procedure'), which is being used in some police departments.

Unbiased line-up instructions

A highly influential interaction between the line-up administrator and the witness occurs at the time the line-up administrator instructs the witness just prior to viewing the line-up. Unbiased instructions explicitly advise the witness that the perpetrator may or may not be in the line-up. Biased instructions fail to include the second element of these instructions, namely, that the perpetrator may not be present. Given the expectations that witnesses are likely to bring to the identification test, it is possible that, for many witnesses, the delivery of unbiased instructions leads to the first inkling that, while there may be a police suspect in the line-up, the suspect may not be the perpetrator.

That this is likely to be the case is dramatically illustrated by the effects of varying the line-up instructions on witness choosing rates. Failure to warn a witness that the perpetrator may not be in the line-up significantly increases the likelihood that the witness will make a choice from a perpetrator-absent line-up (Malpass & Devine, 1981; Steblay, 1997; Brewer & Wells, 2006), thereby increasing the possibility of a damning misidentification of an innocent suspect. The impact of instructional bias on choosing is also apparent for target-present

line-ups. Biased instructions produce fewer line-up rejections, with the increased choosing leading to a greater likelihood of target or foil identifications (Clark, 2005; Brewer & Wells, 2006). These patterns have been demonstrated for both adult and child witnesses (Keast, Brewer & Wells, 2007).

Biased instructions can be communicated in a variety of ways. Interestingly, the mere absence of a warning instruction that says that the perpetrator may or may not be in the line-up is itself generally considered by eyewitness scientists to be a biased instruction (although it is technically a bias resulting from non-instruction or the failure to instruct). In fact, most research studies compare the unbiased instruction to no instruction. But there are even higher levels of bias than simply not instructing the witness. One type of explicitly biased instruction places pressure on the witness to think that not choosing someone is a bad thing and that they are expected to identify someone. For example, 'I am going to show you a line-up. Choose the person whom you saw commit the offence.' This instruction can be construed by the witness as saying that neither the 'not sure' option nor the 'not there' option is acceptable. Or consider the instruction 'Are you able to tell me which of these is the guy you saw that night?' Notice how such an instruction not only implies that the witness is expected to choose someone, but also seems to imply to the witness that this is a test of whether the witness is able, in the sense of 'capable' or 'reliable'. In other words, if you cannot identify someone, then you are not able or not reliable, and hence a 'bad witness'. Obviously, any explicitly biased instructions like these have to be avoided because it is desirable for uncertain witnesses to say that they are unsure rather than guess, and it is desirable for witnesses to indicate that the perpetrator is not there if, in fact, that is the case.

From a line-up administrator's perspective, there is clearly some temptation to use biased instructions as this may well increase the likelihood that the police suspect is identified. However, the dramatic inflation of false identifications which has been so consistently demonstrated highlights the likely costs for the delivery of justice. In sum, witnesses should receive a very clear warning that the perpetrator may not be in the line-up.

Police–witness interactions at the identification test: the decision

While the following may seem so obvious as to be not worth saying, we emphasize the following crucial points. The faithful recording of each eyewitness's decision at the identification test constitutes an important part of the preservation of evidence. Quite simply, the line-up administrator should clearly record each witness's exact response. This recording should clearly distinguish between response options such as (a) the witness identified a particular line-up member; (b) the witness indicated that the perpetrator was not present in the line-up;

(c) the witness indicated that he or she was not sure enough to make an identification; (d) the witness indicated that it could be number 4 or number 6; or (e) the witness indicated that number 3 looks a lot like the perpetrator. Each of these response options has different implications for assessments of the likelihood that the police suspect in the line-up is or is not the perpetrator. Yet a failure to record the exact response of each witness may, for example, lead to some witnesses' decisions (e.g., responses (b) and (e)) not being preserved for tendering in any subsequent trial, or perhaps to a 'transformation' of the witnesses' responses between the identification test and the trial (e.g., response (c) may transform into response (a)). In sum, the failure to record carefully each witness's decision can have far-reaching practical implications for the overall nature and quality of evidence that may be tendered at trial.

Police–witness interactions at the identification test: post-decision influences

After the witness has indicated his or her identification decision (i.e., chosen a line-up member, indicated that the perpetrator is not present or perhaps that the witness is just not sure enough to make a decision), there are opportunities for a whole new set of interactions that are now known to be of considerable forensic relevance. Some of the most important of these are associated with soliciting an expression of confidence in the identification decision from the eyewitnesses. Here we consider issues such as why this type of information may prove to be important in any particular case, what it suggests about the likely accuracy of the identification decision, how it should be collected in order to maximize its informational value, and what use of this information should be made in the courtroom. We also look at how these interactions can influence other witness judgements about the witnessed event.

The relationship between identification confidence and accuracy

It is a common occurrence for people either to express spontaneously their confidence in the judgements that they have made or to be asked to do so. Although most people probably do not accept that judgemental confidence necessarily equates with judgemental accuracy, the existence of at least a reasonably close correspondence between confidence and accuracy is likely to align with people's intuitions. It is not surprising, therefore, that police, lawyers, judges and jurors are interested in knowing about witnesses' confidence in their identification decisions. Nor is it surprising to know that there is ample evidence demonstrating that these groups find an eyewitness's confidence persuasive with respect to the likely accuracy of his or her testimony

(Cutler, Penrod & Stuve, 1988; Lindsay, Wells & O'Connor, 1989; Potter & Brewer, 1999; Bradfield & Wells, 2000; Brewer & Burke, 2002).

If a witness's confidence in an identification decision is likely to be interpreted as a strong pointer to identification accuracy, it is important to consider whether this interpretation is justified. This issue has been a controversial one in the psychology-law field, with eyewitness researchers typically presenting quite a different perspective from that which characterizes many people in the criminal justice community. Specifically, many of the former group have maintained that confidence in an identification provides no useful guide to the accuracy of that identification. The focus here is not on the nature of these differences, although it is worth noting that the specific approach used to examine the relationship has made an important contribution to the different perspectives (see Brewer, 2006). Rather, we shall outline what we believe (based on current knowledge) to be some reasonable generalizations about the characteristics of the confidence-accuracy (CA) relationship for eyewitness identification, and spell out precisely what the implications are for the interpretation of witnesses' expressions of confidence by police investigators, lawyers, judges and jurors, and line-up administrators' interactions with witnesses.

Detailed examinations of the CA relationship (e.g., Sporer, Penrod, Read & Cutler, 1995; Juslin, Olsson & Winman, 1996; Lindsay, Read & Sharma, 1998; Wells & Bradfield, 1998; 1999; Brewer, 2006; Brewer & Wells, 2006; Keast, Brewer & Wells, 2007) suggest the following generalizations are appropriate. First, identification confidence expressed well after the identification (e.g., in court) should be considered uninformative (we return to consider this issue in detail in the next section of this chapter). Second, witnesses who express high confidence immediately after making the identification are by no means guaranteed to have made an accurate decision; the CA relation is likely to be characterized by some degree of overconfidence, though there may be exceptions. Third, for adult witnesses who made a positive identification, CA calibration data indicate that an immediately recorded confidence estimate does provide a guide to likely identification accuracy. This conclusion does not, however, hold for non-choosers; nor does it apply to identifications made by children, at least for those in the 10–12 year age range.

There are several important implications of these findings. First, the line-up administrator should record the witness's confidence assessment immediately after the identification and, as will become clear shortly, this assessment should be provided independently by the witness. Second, no matter how confident the witness may be in the identification decision, police investigators should not assume the identification is accurate. Rather, a very confident identification made by an adult (but not a child) witness should suggest to investigators that their suspect is at least a plausible one and a continued search for corroborating evidence is warranted. Further, a positive identification that is not made with high confidence should suggest to

investigators that there is a very real possibility that their suspect is not the culprit. Third, although a line-up rejection provides a valuable pointer that the suspect does not match the witness's memory (Wells & Olson, 2002), the confidence expressed in a line-up rejection does not assist in determining whether the rejection is likely to be accurate. Similar interpretations of confidence recorded at the time of the identification should be made by lawyers, judges and jurors.

Post-identification influences on confidence

In the previous section we emphasized the importance of obtaining a confidence estimate from the witness immediately after the identification decision. Why is this important? Basically, the objective should be to obtain a confidence judgement that provides an independent assessment of the witness's memory strength rather than one that is shaped by social influences emanating from post-identification test interactions. We are not suggesting here that an immediately provided verbal confidence assessment guarantees a precise index of the witness's memory quality. Rather, we are acknowledging the now overwhelming body of evidence demonstrating the malleability of identification confidence and, hence, the potential unreliability of delayed post-identification confidence assessments.

After making an identification, a witness may receive feedback (explicit or implicit) from a number of sources. The line-up administrator might clearly indicate to the witness that he or she has picked the 'right guy' (e.g., 'That's our man', 'Good, you identified the suspect' or the simple statement/question 'Great! You would testify to that in court, right?'). Or, the administrator's facial expression or non-verbal demeanour following the witness's decision might be interpreted as confirming the choice. There are many non-verbal signs of acceptance, or positive reaction such as smiles, head nods and other spontaneous gestures.

Interestingly, disconfirming feedback following filler identifications is also considered a problem. Telling an eyewitness that she or he has identified a filler leads witnesses to 'back off' from their identification and claim that they were not as certain as they in fact were. But, research shows that filler identifications have diagnostic value because they are more frequent when the suspect is innocent than when the suspect is guilty (Wells & Lindsay, 1980; Clark & Wells, 2008). In effect, witnesses who identify a filler are saying that the person they identified looks more like the perpetrator than does the suspect. If they are fairly certain in this judgement, then it would make sense to ask them how certain they are before telling them that they identified a filler.

Confirming or disconfirming feedback might also emerge if the witness is placed in a situation where he or she discusses the identification test with

another witness to the crime. Such feedback or cues from line-up administrators or co-witnesses are known to exert a powerful effect on witnesses' subsequent expressions of confidence in their identification decisions. Confirming feedback inflates witness confidence, whereas disconfirming feedback has the opposite effect (Luus & Wells, 1994; Wells & Bradfield, 1998; 1999; Bradfield, Wells & Olson, 2002; Wells, Olson & Charman, 2003; Hafstad, Memon & Logie, 2004). This pattern occurs both for positive identifications and for line-up rejections, and it occurs for witnesses' recollection of their confidence at the time of the identification and at the time they are asked about it (Semmler, Brewer & Wells 2004). The effect is not dependent on delivery by a 'live' administrator, occurring also when delivered by a computer or co-witness (Luus & Wells, 1994; Semmler *et al.*, 2004). Moreover, it has even been detected when the line-up administrator knew the suspect's identity but did not provide any verbal feedback, reinforcing the potential for influence via non-verbal cues (Garrioch & Brimacombe, 2001).

Given our earlier observations about the persuasiveness of confident witnesses and identifications, the implications of these confidence malleability findings are reasonably obvious. Witnesses who pick the police suspect and/or make the same choice as a co-witness may, as a result of cues provided by the line-up administrator or another witness, end up expressing confidence levels way above (or below) what they would have reported if there had been no interaction with the line-up administrator or co-witness. Imagine the likely difference in the impact on a jury if a witness reports that they are about 70% certain that they observed the defendant commit the crime vs. reporting absolute certainty in the identification. Clearly, this malleability of confidence judgements means that expressions of confidence obtained from witnesses in the courtroom are not only uninformative but also potentially highly misleading. Moreover, it means that witnesses should be asked to indicate their identification decision confidence immediately after making the decision and prior to any social interactions with line-up administrators or police, and that this confidence estimate should be recorded and be the confidence estimate that is tendered as evidence.

The consistent implementation of this practice for recording and tendering confidence evidence would represent a significant breakthrough. Nevertheless, we should highlight at least one caveat. Although there is now evidence that mock-jurors downgrade the credibility of witnesses who display confidence inflation (Bradfield & McQuiston, 2004), this is not a uniform reaction. Jones, Williams & Brewer (2008) found that while mock-jurors discredited witnesses who provided unconvincing reasons for their confidence inflation, they were less likely to do so when the witness was able to offer some plausible insight that apparently justified the inflation. This finding suggests that simply tendering as evidence a confidence estimate obtained at the time of the identification will not always be sufficient to combat the impact of confidence inflation.

Post-identification influences on other witness judgements

Another striking finding in the eyewitness identification literature is that post-identification feedback affects not only witnesses' recollections of how confident they were at the time of the identification but also their perceptions of both the witnessing and the identification test experience. For example, post-identification feedback results in witnesses 'inflating' their perceptions of the quality of their view of the event, the amount of attention they were paying at the time, and the ease and speed with which they had made the identification (Wells & Bradfield, 1998; 1999). Just as witness confidence shapes judgements of witness credibility, so too are these perceptions likely to shape jurors' evaluations of the extent to which the witness's identification should be relied upon. Accordingly, to ensure that what is essentially distorted evidence does not shape juror judgements, ways of recording such witness perceptions immediately after the identification test (e.g., via recording of the witness-line-up administrator interaction) need to be encouraged.

Putting these recommendations into practice

How do recommendations such as those we have outlined in this chapter get incorporated into practice? There is no magical formula. There are, however, a variety of possible approaches, any or all of which may be effective given the right timing. Clearly the DNA exoneration cases in the USA have been a catalyst for change in that country and elsewhere. In the USA, a number of these recommendations (e.g., providing unbiased instructions, obtaining a confidence measure directly after the identification) have already been embodied in the National Institute of Justice Guidelines for the Collection of Eyewitness Evidence (Technical Working Group for Eyewitness Evidence, 1999). Some of these recommendations (e.g., unbiased instructions) have been widely adopted by police jurisdictions in different parts of the world. Which recommendations are likely to be adopted, and why, is difficult to ascertain, particularly given the complexity of factors that drive organizational change.

One thing that the authors advocate, however, is working hard to promote the implications of scientific research to relevant practitioner groups such as police, lawyers and judges. Over many years Gary Wells has conducted scores of lectures, workshops, etc. for police, lawyers and judges in the USA. More recently, Neil Brewer has presented numerous lectures and workshops for judges and magistrates in most Australian legal jurisdictions. While none of this guarantees any policy or practical change, a common thread noted by both authors is that their audiences have engaged enthusiastically and intelligently in such discussions. Assuming that researchers are persistent in their influence

attempts, such responses bode well for the likelihood of effecting change in identification test procedures.

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